

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6551 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

JASWANT SINGH

Versus

OIL & NATURAL GAS COMMISSION

Appearance:

MR IS SUPEHIA for Petitioner

MR RAJNI H MEHTA for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 23/04/97

ORAL JUDGEMENT

1. Heard the learned counsel for the parties. The counsel for the respondents Shri R.H. Mehta filed a copy of letter of the Corporation dated 3-4-1997 addressed to him. From this letter, it comes out that the petitioner has been given the promotion to the post of Assistant Engineer on 1-4-1982. He has been promoted to the next higher post of Assistant Executive Engineer on 1-1-1985 then to Executive Engineer on 1-1-1989 and Deputy

Superintendent on 1-1-1994. So after filing of this Special Civil Application, the petitioner has been given three further promotions. This letter of Corporation is taken on record.

2. It is not in dispute that the petitioner was given promotion to the post of Assistant Engineer (Mechanical) with effect from 1-4-1982, under the order dated 19-6-1984, but he claims that he should have been given the promotion w.e.f. 1-10-1980. This claim has been made on the ground that on 1-10-1980, the petitioner became eligible for promotion to the post of Assistant Engineer (Mechanical). Merely because, the petitioner became eligible for promotion on 1-10-1980, his claim for promotion may not stand to any justification. The eligibility is one thing. The promotion can only be given when the post is available and otherwise the petitioner is sufficiently senior.

3. Another grievance has been made that as per the recruitment regulations, the promotion to the post of Assistant Engineer (Mechanical) is to be made 50% from the persons of the pay scale of 595-1140 and 50% from the pay scale of 530-1060. All the posts of Assistant Engineer (Mechanical) were filled in from Chargeman i.e. of lower pay scale and none of the junior Engineer was given the promotion.

4. In the reply, the respondent-Commission has come up with a case that no functional vacancies were available, and as such, the petitioner's case for promotion could not be considered. So far as the promotion given to the other persons is concerned, the Commission has given out that to give relief to the employees who have been stagnating for number of years, the Commission gave anti-stagnation relief by promoting people and by a specific clause, it was stated that they will be required to carry out duty either of the promoted post or of the lower one. So those persons have been given the anti-stagnation relief. Under the order dated 29th July, 1980, 140 posts of Foreman (Mechanical) were upgraded by persons who have completed 12 years of service under long term promotion policy. Similarly, 60 posts of Foreman (Mechanical) were upgraded under the order dated 5-3-1981. So only under the long term promotion policy or anti-stagnation relief, the persons of the lower pay scales have been given the benefit. The benefits were only available to those persons who have completed 12 years of service. So the respondents are correct to say that the functional vacancies were not available for the post of Assistant Engineer

(Mechanical). It is not the case where any of the legal or fundamental right of the petitioner has been infringed. The petitioner was already in the higher pay scale and the persons of lower pay scales who were stagnating have been given the promotions under the long term promotion policy or anti-stagnation relief. The petitioner does not belong to that class. Otherwise also, the petitioner has been given three further promotions and it is not the case of the petitioner that he has otherwise suffered any loss.

5. Taking into consideration the totality of the facts of this case, I do not find that any injustice has been done to the petitioner in the present case nor I find any merits in the claim of the petitioner for promotion to the post of Assistant Engineer (Mechanical) from 1st October, 1980.

6. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged.

zgs/-